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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,457	11/27/2001	Martin Ouwerkerk	NL 000676	2220

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

MARTIN, ANGELA J

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/995,457

Applicant(s)

Ouwerkerk et al.

Examiner  
Angela J. Martin

Art Unit  
1745



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Nov 27, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-13 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

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### **DETAILED ACTION**

The USPTO is participating in a search exchange pilot program with the European Patent Office (EPO). As part of the pilot program, the USPTO has received a copy of the Search Report prepared by the EPO on the counterpart EP application for which priority under 35 U.S.C. 119(a) is claimed. The references cited in the EPO Search Report have been considered by the examiner and have been listed on the PTO-892 form. A copy of these references is not being furnished to applicant with this Office Action. It will not be necessary for applicant to submit these references in an information disclosure statement.

#### ***Claim Objections***

1. Claim 7 is objected to because of the following informalities: The value of the subscript x, for H, is not presented. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102/103***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Massalski et al., "Binary alloy phase diagrams."

Rejection of claims 1-6 drawn to a hydrogen storage material.

Massalski et al., teach a hydrogen storage material comprising a magnesium-containing intermetallic compound capable of forming a hydride with hydrogen, characterized in that the intermetallic compound comprises an alloy of magnesium and a trivalent metal of Sc (Am. Soc. For Metals, p. 1542-1543). It also teaches the intermetallic compound comprises an alloy of scandium-magnesium (Am. Soc. For Metals, p. 1542); additionally it teaches the scandium-magnesium alloy comprises 1-50 at. % scandium and 50-99 at. % magnesium; 15-40 at. % scandium and 60-85 at. % magnesium; 30-40 at. % scandium and 60-70 at. % magnesium (Am. Soc. For Metals, p. 1543).

Thus, the claims are anticipated because the prior art comprises various compositions of scandium-magnesium alloy and the ability to store hydrogen would be inherent.

However, in the alternative, using the alloy to store hydrogen would be obvious to one of ordinary skill in the art.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stetson et al., U.S. Pat. No. 6,099,811.

Rejection of claims 1 and 8-10 drawn to a hydrogen storage material.

Stetson et al., teach a hydrogen storage material comprising a magnesium-containing intermetallic compound capable of forming a hydride with hydrogen, characterized in that the intermetallic compound comprises an alloy of magnesium and a trivalent metal of La (col. 6, lines 37-50); additionally, it teaches the hydrogen storage material comprises an amount of a catalytically active material, palladium (col. 5, lines 32-36).

Thus, the claims are anticipated.

7. Claims 1 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pezat et al., U.S. Pat. No. 4,259,110.

Rejection of claim 1 drawn to a hydrogen storage material; claim 11 drawn to an electrochemically active material; claim 12 drawn to an electrochemical cell; claim 13 drawn to electronic equipment.

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Pezat et al., teach a hydrogen storage material comprising a magnesium-containing intermetallic compound capable of forming a hydride with hydrogen, characterized in that the intermetallic compound comprises an alloy of magnesium and a trivalent metal of La (col. 1, lines 45-57). It also teaches an electrochemically active material comprising the hydrogen storage material and an electrochemical cell comprising the hydrogen storage material, and it teaches electronic equipment powered by the described electrochemical cell (col. 1, lines 5-15).

Thus, the claims are anticipated.

*Examiner Correspondence*

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Angela J. Martin whose telephone number is (703) 305-0586. The Examiner can normally be reached on Monday - Friday from 8:00am to 4:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Patrick Ryan, can be reached at (703) 308-2383.

In order to transmit an official fax/non-final, the number is (703) 872-9310. In order to transmit an official fax/after final, the number is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Angela J. Martin", is located at the bottom left of the page.